

Tax Issues for Small Construction Companies

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- Accounting Methods
- Employee vs. Independent Contractor
- Office in the Home
- Automobile Expenses

Accounting Method

- A set of rules used to determine when and how income and expenses are reported.
 - Income
 - Cash Method: Include all monies actually or constructively received
 - Accrual Method: Include amounts where the product or service is provided
 - Expense
 - Cash Method: Deduct when actually paid
 - Accrual Method: Deduct when the expense is incurred

Completed Contract Method

Report all income from the contract AND deduct all related job costs in the year the project is completed and accepted by the customer

Employee vs. Independent Contractor

Consider Three Common-law Rules

1. Behavioral control
2. Financial control
3. Type of relationship of the parties

Behavioral Control

Types of Instructions

- When and where to do the work?
- What work must be performed by a specified individual?
- What workers to hire or to assist with the work?
- Where to purchase supplies and services?
- What tools or equipment to use?
- What order or sequence to follow when performing the work?

The key fact to consider is whether the business retains the RIGHT to control the worker regardless of whether the business actually exercises that right.

Training

- Training is a means of explaining detailed methods and procedures to be used in performing a task.
- Periodic or on-going training about procedures to follow & methods to be used indicates that a business wants services performed in a particular manner.
 - This type of training is strong evidence of an employee-employer relationship.

Financial Control

Financial Control Factors

- Is there a significant investment by the worker?
- Does the worker incur un-reimbursed expenses?
- Does the worker have the opportunity to make a profit or loss?
- Are the worker's services available to the market?
- What method of payment does the worker receive?

Type of Relationship

Relationship of the Parties

- Is there a written contract describing the relationship intended?
- Does the business provide the worker with employee-type benefits?
- What is the permanency of the relationship?
- To what extent are the worker's services an integral part of the business?

What are My Responsibilities as an Employer?

1. Have worker complete Form W-4.
2. Withhold Income tax from wages paid to employees.
3. Withhold Social Security & Medicare tax from wages to employee.
4. Pay employer's portion of Social Security & Medicare tax.
5. Deposit Income tax, Social Security, and Medicare tax at authorized bank or using EFTPS.
 - Report these taxes on Form 941.
6. Pay Federal Unemployment tax and file Form 940.

IRS e-file for Business and EFTPS

Reporting Payments To Employees

- Issue Form W-2 to Employees by January 31 of following year
- File Form W-2 and W-3 to Social Security Administration by February 28 of following year

Independent Contractor

- Have independent contractor complete Form W-9 before paying

- Issue Form 1099 to Independent Contractors by January 31 of following year
- File Form 1099 with IRS by February 28 of following year, attached to Form 1096

Automobile Expense

- Two methods are available:
- Standard Mileage Rate
- Actual Operating Cost of Business Use

Standard Mileage Computation

\$.36 per mile for 2003

PLUS

Parking, tolls, & interest related to business

BUT NOT

Operating Expenses are deductible

Restrictions on the Standard Mileage Rate Method

- When car is used for hire (taxi)
- When operating two or more vehicles simultaneously
- When depreciation or Section 179 was taken in a prior year
- Claimed actual costs on a leased car after 1997:
 - Can't go from actual to standard
 - Leased vehicles can be on standard mileage rate, but election is irrevocable

Actual Cost Method- Record Keeping

Total Mileage For The Vehicle AND Total Business Miles

PLUS

All Receipts for Operating Costs AND Invoice For Purchase of Vehicle
Or Lease Agreement

What is Included in Operating Cost?

- Depreciation
- Gas & Oil
- Insurance
- Parking & Tolls
- Maintenance
- Repairs
- Taxes
- Licenses
- Garage Rent
- Registration Fees
- Lease Payments
- Tires

Must keep records to substantiate each expense and % of business use.

Automobile Expenses

Actual Expenses

- Multiply the business usage percentage against the total of depreciation, garage rent, gas, insurance, lease payments, licenses, oil, registration fees, repairs, and tires.

Actual Cost Example

Expense: Operating Cost

Car A - \$1,500

Car B - \$1,500

Lease Payments

Car A - 0

Car B - \$3,587

Total Operating Costs

Car A - \$1,500

Car B - \$5,087

Times Business %

Car A - .70

Car B - .70

Deduct on Line 10 – Sch C

Car A - \$1,050

Car B - \$3,561

Depreciation (\$3,060 times 70%) Maximum limit X Business %

Car A - \$2,142

Car B - 0

Total Deduction

Car A - \$3,192

Car B - \$3,561

Office in the Home IRC Section 280A

Must Meet All

- Exclusive Use
Specific area of your home only for your trade or business.
- Regular Use
Use the area on a continuing basis.
- Trade or Business Use
Used in connection with a trade or business.

Must Meet One

- Principal place of business.
- A separate structure used in connection with your trade.
- Meet and deal with clients or customers in the normal course of your trade.

Determine Business Percentage

- Divide the area used for business by the total area of the house.
OR
- Divide the number of rooms used for business by the total number of rooms in the house. Rooms have to be approximately equivalent in size.

Other Considerations

- Partial Year Usage:
Only consider that portion of the year you actually start using your home for business.
- Deduction Limit:
Your business use of home expenses are limited to the tentative profit (net income before taking business use of home expenses).

Where are Office in the Home Expenses Deducted?

- Form 8829 - if self employed
- Schedule A - if employee
- Schedule E - if partner

Conclusion

- Accounting Methods
- Employee vs. Independent Contractor
- Automobile and Truck Expenses
- Office in the Home